

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

DONALD M. MADISON,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 7:09-CV-134 (HL)
	:	42 U.S.C. §1983
VALERIE HOLLIS, Nurse,	:	
	:	
Defendant	:	

RECOMMENDATION OF DISMISSAL

Presently pending in this *pro se* prisoner 42 U.S.C. §1983 action is Defendant's motion to dismiss for failure to prosecute. (R-15). Defendant argues that Plaintiff's Complaint is subject to dismissal under Rule 41(b) of the Federal Rules of Civil Procedure, as he has failed comply with the court's order to keep the clerk apprised of his mailing address. Mail sent to the Plaintiff at his address of record was returned to the clerk on January 19, 2010 (R-10), and March 9, 2010 (R-14). Although the undersigned notified¹ Plaintiff of the filing of the Motion to Dismiss and the importance of responding to the same at an address the clerk updated based on a filing by Plaintiff in a separate case, Plaintiff has failed to respond.

In fact, Plaintiff has neither taken action in this case, nor had any contact with the court since December 10, 2009, when he filed a supplement to his complaint (R-5). In an

¹ The Order of Notification of the Motion to Dismiss (R-17) was mailed to the updated address by the clerk on April 29, 2010, over six weeks ago, and has not been returned as undeliverable. (See Docket for filings).

order directing service of the complaint filed on December 11, 2009 (R-6), which does not appear to have been returned as undeliverable, Plaintiff was advised of his duty to diligently prosecute this action or face its possible dismissal.

The undersigned finds a clear record of Plaintiff's failure to prosecute this action; it is therefore the **RECOMMENDATION** of the undersigned that Plaintiff's case be **DISMISSED** for failure to prosecute and that the Motion to Dismiss (R-15), filed on behalf of Defendant be **DENIED** as moot. Pursuant to 28 U.S.C. § 636(b)(1), Plaintiff may file objections to this Recommendation in writing with the **UNITED STATES DISTRICT JUDGE** within **FOURTEEN (14) DAYS** of receipt thereof.

SO RECOMMENDED, this 11th day of June, 2010.

S/ G. MALLON FAIRCLOTH
UNITED STATES MAGISTRATE JUDGE

mZc